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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,238	07/14/2003	Alexandre Bronstein	BRONSTEIN.002	5820

7590 01/24/2007
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EXAMINER

HOEL, MATTHEW D

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/619,238	Applicant(s) BRONSTEIN, ALEXANDRE	
	Examiner Matthew D. Hoel	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 21 to 24, 30 to 34, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tyree (U.S. pre-grant publication 2002/0120853 A1, application 09/793,733).

4. As to Claims 21 and 31: '853 discloses all of the elements of Claim 1, but lacks specificity as to the method being used to prevent the unwanted creation of an account for a computer-related service. In any event, this limitation is little more than a statement of intended use without much patentable weight. The same method could be used to prevent unauthorized access to a web page, or an automatic teller machine, or to prevent a user from making incoming or outgoing spam on a server, in addition to

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preventing the creation of a spurious account. '853 generates a communication that presents a stimulus that is perceptible by one or more human senses and poses a question that pertains to that stimulus (Fig. 2, Para. 36, 39). '853 obtains an answer to the question and compares the question to a correct answer that would be provided by a human being attempting to create the user account such that the question is selected to exercise a capability of the human being to perform common sense reasoning with respect to the stimulus (Para. 36, 39; common-sense answer to question, Para. 46; intelligence test or common-sense reasoning, Para. 47; manipulating and moving objects, Para. 114). '853 does not specifically mention preventing the unwanted creation of an account for a computer-related service. '853 discusses preventing denial-of-service attacks (Para. 4) and the alteration of configuration data (Para. 18). The application has not stated that the method is more suited for the purpose of preventing fraudulent creation of accounts as opposed to other purposes such as preventing spam, unauthorized web page access, etc., as it appears the method is equally applicable to any of these purposes. Moreover, it appears that the method of '853, or the applicant's invention, would perform equally well modified to perform other tasks such as preventing spam or unauthorized web page access as well as prevent unwanted account creation. Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have applied the applicant's method, the same method of '853, to the task of preventing unwanted account creation, as well as to the task of preventing denial-of-service attacks outlined in '853.

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5. As to Claims 22 and 32: '853 teaches further obtaining a set of material for rendering the stimulus and the question from a data store that holds a set of pre-selected material for a variety of stimuli and questions that exercise the capability of the human being to perform common-sense reasoning (random test generator, Para. 39).
6. As to Claims 23 and 33: '853 teaches varying one or more visual characteristics of the visual stimulus (moving image, manipulating objects, Para. 114).
7. As to Claims 24 and 34: '853 teaches measuring a response time to the question and determining whether the response time indicates that the answer was provided by a human being (Para. 108).
8. As to Claims 30 and 40: '853 teaches selecting the question to exercise a capability of the human being to recognize and parse human speech (question to test for human intelligence, Para. 82, Fig. 5; audio format, Para. 114).
9. Claims 25 to 28 and 35 to 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over '853 in view of Denkewicz (U.S. patent 7,055,823 B2).
10. As to Claims 25 and 35: '853 discloses all of the elements of Claim 25, but lacks specificity as to the stimulus depicting a living thing. '823, however, teaches a quiz game in which the stimulus depicts a living thing (Figs. 1-4; game played in computer embodiment, Col. 4, Lines 31 to 59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the stimulus depicting a living thing of '823 to the authorization method of '853. '853 displays images and asks questions in its authorization (Para. 36), in the same manner as '823 (Figs. 1 to 5; Col.

2, Lines 42 to 65). The game of '823 uses passwords to allow the player to progress from one level to the other (passwords encrypted as pictographs, Col. 4, Lines 31 to 59, common-sense reasoning on the part of the player is thus required to be authorized to move to the next level, Col. 5, Lines 9 to 11). The game of '823 can be provided over a network (Col. 5, Lines 21 to 42); '853 is used to authorize access to computer-related services over a network (Fig. 1). '823 is thus analogous art to '853. The advantage of this combination would be to provide the user with interesting and familiar stimuli for the user to perform the common-sense reasoning with; this would be particularly advantageous in gaming applications such as '823 in which maintaining player interest is important for the game to be successful.

11. As to Claims 26 and 36: '823 displays a question pertaining to the capability of the living thing (Fig. 5).

12. As to Claims 27 and 37: '823 depicts the living thing visually (Figs. 1-4).

13. As to Claims 28 and 38: '853 teaches depicting the stimulus as audio content (Para. 36). '823 teaches the stimulus as pertaining to a living thing (Figs. 1-4).

14. Claims 29 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over '853.

15. As to Claims 29 and 39: While '853 does not specifically address adapting the stimulus to the disability of a human being, it does address that the stimulus can be addressed to the user in either a visual or aural format (Para. 36). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the

method of '853 to adapt the stimulus of '853 to a disability of a human being to arrive at the inventor's claimed method because such motivation was provided by Section 508 of the Rehabilitation Act (29 U.S.C. §794 (d)) which require federal government websites to have information accessible to those with disabilities as of June 21st, 2001. This could have been done by providing a visual stimulus to accommodate those with hearing impairments or by providing an aural stimulus to accommodate those with visual impairments. A Braille stimulus could even have been provided for users with visual and hearing impairments (Braille terminal, U.S. patent 4,305,067 A). The advantage of this combination would be to comply with regulations as well as to make the access authorization method accessible to all persons, regardless of disability.

Response to Arguments

16. Applicant's arguments with respect to Claims 1 to 20 have been considered but are moot in view of the new ground(s) of rejection. The previous claims have been cancelled, and the new claims 21 to 40 are not read on by the previously cited prior art. The examiner respectfully disagrees with the applicant as to the claims' condition for allowance.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The webpage www.access-board.gov/sec508/summary.htm, downloaded Jan. 21st, 2007 is considered to be relevant as it establishes the effective

date of Section 508 of the Rehabilitation Act. www.access-board.gov/sec508/guide/act.htm, downloaded Jan. 21st, 2007 contains 29 U.S.C. § 794 (d), or Section 508 of the Rehabilitation Act. Pinkas, et al. in U.S. pre-grant publication 2004/0073813 A1 teach PIN numbers using captchas. Libbey, et al. in U.S. pre-grant publication 2004/0199597 A1 teach human interactive proofs. Goodman, et al. in U.S. pre-grant publication 2005/0021649 A1 teach using challenge questions to restrict access to a computer-related service. Herley, et al. in U.S. pre-grant publication 2004/0254793 A1 teach audio human interactive proofs. Pinkas in U.S. pre-grant publication 2004/0024817 A1 teaches Turing tests. Cobb in U.S. patent 6,199,102 B1 teaches using challenge questions to restrict access to computer-related services. Andrews, et al. in U.S. pre-grant publication 2003/0204569 A1 teach using challenge questions to restrict access to computer-related services. Rosser, et al. in U.S. pre-grant publication 2006/0069546 A1 teach conversational human interactive proofs.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew D. Hoel, Patent Examiner
AU 3714

 11/22/07

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